

Planning Board Minutes

November 21st, 2017

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Cascade County, Rina Ft Moore - Clerk & Recorder



CASCADE COUNTY PLANNING BOARD

November 21, 2017

9:00 am

Court House Annex

325 2nd Ave North

Board Members: Mark Carlson, Charles Kuether, Elliott Merja, Rob Skawinski, Ken Thornton, and Dan Johnstone

Notice: These minutes are paraphrased to reflect the proceedings of the Cascade County Planning Board, and are considered a draft until formally approved by the Planning Board.

Staff Present: Alex Dachs, Troy Hangen, Carey Haight, and Nadine Thares

Attendees: Mark Leo

1. Call to order: Chairman Elliott Merja called the meeting to order at 9:00 am

2. Roll call:

Board Members Present: Mark Carlson, Charles Kuether, Elliott Merja, Ken Thornton, and Dan Johnstone

Board Members Absent: Rob Skawinski

3. Approval of Minutes: August 15, 2017

Charles Kuether motioned to approve the minutes as submitted.

Ken Thornton seconded the motion.

All in Favor, Motion passes 5-0

4. New Business:

A. Public Hearing: 1st Time Minor Subdivision – Painted Horse

First time minor does not require Public Comment.

Alex Dachs presented the staff report. Summation is as follows: the Cascade County Planning Board is in receipt of an application Ronald Lipke / Painted Horse Stables, LLC to approve a minor subdivision. Plat. This proposed subdivision is located at 675 Vaughn South Frontage Road, located in the S ½ of S31, T21N, R3E, P.M.M., Cascade County, MT. The land is zoned Light Industrial (I-1). There are no delinquent taxes on this property. The applicant has been advised that any delinquent taxes owed must be paid current prior to final recordation of the minor subdivision plat.

The preliminary plat would subdivide 54.5 acres creating three (3) light industrial lots and one (1) open space lot in the 100-year FEMA regulated floodplain that will be restricted in use/development, because it is a first time minor subdivision it is exempt from the parkland requirement pursuant to M.C.A. 76-3-621 (3)(e). A public hearing is not required on this first minor plat pursuant to M.C.A. 76-3-609. An Environmental Assessment is not required pursuant to M.C.A. 76-3-609(2)(d)(i).

Access to the subdivision will be via Vaughn South Frontage Road, with Lots 1 and 2 sharing an approved MDT approach. The applicant is in the process of obtaining an approach permit and approval of the approach. Lot 3 has an existing approach. Trip generation factors from the Institute of Transportation Engineers (Appendix 11.5), the industrial parcels would generate approximately 3.2 trips/employee/day, based on roughly five employees; this would generate 48 trips per day for the three lots.

Lots 1, 2, and 4 of the proposed subdivision will not be serviced by individual water and sewage disposal systems at this time and a sanitary restriction will be placed on the plat stating "a parcel for that has no facilities for water supply, wastewater disposal, storm drainage, or solid waste facilities if no facilities will be constructed on the parcel" Approval for such systems from state and/or local health agencies is required before systems are installed.

The Cascade County Sheriff's Department provides Law enforcement services and the Manchester and Vaughn Volunteer Fire Departments provide fire protection support. Response distance for emergency fire vehicles is approximately 4.5 to 9 miles. Response time will be dictated by weather and road conditions. The subdivision is exempt from Fire Protection located on-site as it is a First Time Minor Subdivision, and is not required to provide on-site fire protection services.

A portion of the property, more particularly described as Lot 4 consisting of 0.764 acres, is located within a 100 year floodplain (FIRM Panel number 30013C0320E). Subdivision Regulation 10-14 states that "a parcel of land proposed for subdivision, which is determined to have any portion located in a regulated floodplain of a perennial stream as defined in the Cascade County Floodplain Regulations and/or identified as such by adopted Floodway and Flood Insurance Rate Maps (FIRM), shall not be subdivided for any non-agricultural or non-open space uses, structures, or activities."

The property received a notice of noxious weeds in May 2017, as there were noxious weeds present on the property. No action was taken by the owner to resolve the issue. The applicant needs to remediate the problem this spring (April/early May) or the county will take steps to move to compliance enforcement.

CONCLUSION

This proposed subdivision meets the requirements of the Cascade County Subdivision Regulations, as well as Montana's Subdivision and Surveying Laws and Regulations.

RECOMMENDATIONS

The following recommendations are provided for the Board's consideration:

- A. "I move that the recommendation to the Cascade County Commission after consideration of the Staff Report and Findings of Fact the Preliminary Plat of the Painted Horse Minor Subdivision be **denied**;

or

- B. "I move to recommend to the Cascade County Commission after consideration of the Staff Report and Findings of Fact adopt said Staff Report and Findings of Fact and approve the Preliminary Plat of the Painted Horse Minor Subdivision, subject to the following ~~ten (10)~~ nine (9) conditions:

1. Having the developer's surveyor correct any errors or omissions on the preliminary plat;
2. Causing to be prepared certificates of title of the land in the subdivision to be recorded in conjunction with the final plat;
3. Submitting with the plat a certificate of a title abstracter showing the names of the owners of record of the land and the names of lien holders or claimants of record against the land (MCA 76-3-612);
4. Pursuant to 7-22-2152 M.C.A., submitting a written plan to the Cascade County Weed Board specifying the methods for weed management procedures with regards to this development, and complying with any current violation of noxious weeds on the property to prevent further spread onto neighboring properties;
5. Causing to be recorded on the plat a statement concerning limited public services;
6. Causing to be recorded on the plat an Agricultural Notification Statement;
7. Obtain approach permit from Montana Department of Transportation for shared approach providing access for lots 1 and 2 of the subdivision for approaches onto Vaughn South Frontage Road;
8. Causing to be recorded in conjunction with the final plat, an agreement requiring property owners of each subdivision tract to take part in any Rural Special Improvement District (RSID) for the reconstruction, improvement or perpetual maintenance of any road that can be used to access these lots as determined by Cascade County, provided that all other property owners served by said road share equitably in such an RSID;
9. Lot 4, is re-zoned open space and will be protected in perpetuity via deed restriction or irrevocable covenant and will be bought/sold conveyed as a part of Lot 3.

Board Questions:

Charles Kuether referred to the Growth Policy and asked why the water and sewer are being proposed without.

Alex Dachs replied the applicant requested at this time due to the unknown number of employees, size of buildings, and what type of septic would be needed.

Ken Thornton asked about the fire protection and the approach and interior roads.

Alex Dachs explained that it is a first time minor and the number of lots is under the requirement for fire. Alex stated that per the MDT approval on approach, there would be no interior road.

Ken Thornton asked for clarification that all the conditions have to be approved before any structures may be built.

Alex Dachs replied yes, if a lot is sold before the subdivision review is complete, then it would have to be used for agricultural or the new owner would have to go through the DEQ process if they wish to use it for industrial.

Elliott Merja asked if farm related structures would be allowed.

Mark Leo replied that farm related would be allowed, but none requiring water or sewer.

Mark Carlson referred to the maps, asked for clarification about the structure in the floodplain.

Alex Dachs replied that **Mark Leo** (engineer) checked the elevation and found it does not lie in the floodplain.

Applicant representative: Mark Leo, Big Sky Civil Engineering, was available for questions.
First time minor does not require Public Comment.

Board Discussion & Decision:

Charles Kuether motioned to recommend to the Cascade County Commission after consideration of the Staff Report and Findings of Fact adopt said Staff Report and Findings of Fact and **approve the Preliminary Plat of the Painted Horse Minor Subdivision**, subject to the following nine (9) conditions:

1. Having the developer's surveyor correct any errors or omissions on the preliminary plat;
2. Causing to be prepared certificates of title of the land in the subdivision to be recorded in conjunction with the final plat;
3. Submitting with the plat a certificate of a title abstracter showing the names of the owners of record of the land and the names of lien holders or claimants of record against the land (MCA 76-3-612);
4. Pursuant to 7-22-2152 M.C.A., submitting a written plan to the Cascade County Weed Board specifying the methods for weed management procedures with regards to this development, and complying with any current violation of noxious weeds on the property to prevent further spread onto neighboring properties;
5. Causing to be recorded on the plat a statement concerning limited public services;
6. Causing to be recorded on the plat an Agricultural Notification Statement;
7. Obtain approach permit from Montana Department of Transportation for shared approach providing access for lots 1 and 2 of the subdivision for approaches onto Vaughn South Frontage Road;
8. Causing to be recorded in conjunction with the final plat, an agreement requiring property owners of each subdivision tract to take part in any Rural Special Improvement District (RSID) for the reconstruction, improvement or perpetual maintenance of any road that can be used to access these lots as determined by Cascade County, provided that all other property owners served by said road share equitably in such an RSID;
9. Lot 4, is re-zoned open space and will be protected in perpetuity via deed restriction or irrevocable covenant and will be bought/sold conveyed as a part of Lot 3.

Mark Carlson seconded the motion.

All in Favor, Motion passes 5-0

B. Rezone – Painted Horse Stables – Ron Lipke

Alex Dachs presented the staff report. Summation is as follows: the Cascade County Planning Board is in receipt of an application from **Ronald Lipke, Applicant and Painted Horse Stables LLC**, owner have petitioned to rezone .764-acres, a portion of Parcel 2587000 is located in the S 1/2, S31, T21N, R3E, from Light Industrial (I-1) to Open Space (OS) District.

The requested OS Open Space District zoning permits principal uses ranging from public and private park & recreation space to public utilities and agriculture or forestry, in this situation, the open space will be restricted to no development and will be owned by the owner of Lot 3.

Per Section 10-14 of the Cascade County Subdivision Regulations states that "a parcel of land proposed for subdivision, which is determined to have any portion located in a regulated floodplain of a perennial stream as defined in the Cascade County Floodplain Regulations and/or identified as such by adopted Floodway and Flood Insurance Rate Maps (FIRM), shall not be subdivided for any non-agricultural or non-open space uses, structures or activities." The zone change, along with the proposed subdivision, will make the designated floodplain areas in this project consistent with this provision by creating a parcel designated as open space.

The intent of the rezoning is to designate an area on the property located within the regulated floodplain (based on the Flood Insurance Rate Map 30013C0320E) as Open Space "OS" zoning district, while maintaining the I-1, light industrial zoning district on the land suitable for development, thereby allowing the creation of three (3) light industrial lots.

The Cascade County Sheriff's Department provides law enforcement and the Vaughn and Manchester Volunteer Fire Department provide fire protection. Public Hearing Notice was mailed to surrounding property owners on November 13, 2017.

MCA 76-2-203 lists criteria and guidelines, which must be considered in conjunction with all zoning or rezoning proposals. The 2014 Cascade County Growth Policy contains five (5) goals, which the policy defines as a direction of the Growth Policy. Each Goal includes a subset of objectives, which the Growth Policy defines as a more narrowly defined and concrete expression of community intent.

#1: Made in accordance with the five listed goals in the growth policy;

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

Goal 2: Protect and maintain Cascade County's rural character and the community's historic relationship with natural resource development.

Goal 3: Maintain Agricultural Economy

Goal 4: Retain the presence of the US Military in Cascade County

Goal 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

#2. Whether the zoning regulations have been designed to secure safety from fire and other dangers.

#3. Whether the zoning regulations have been designed to promote public health, public safety, and general welfare.

#4. Whether the zoning regulations have been designed to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.

#5. Whether the zoning regulations have been designed to provide adequate light and air.

#6. Whether the zoning regulation have been designed to address effects on motorized and non-motorized transportation systems.

#7. Whether the zoning regulations have been designed to be compatible with urban growth in

the vicinity of cities and towns that at a minimum must include the areas around municipalities.

- #8. Whether the zoning regulations have been made with reasonable consideration to the district's peculiar suitability for particular uses (100-year floodplain of the Sun River).
- #9. Whether the zoning regulations have been made with a view to conserving the value of buildings.
- #10. Whether the zoning regulations have been made with a view to encouraging the most appropriate use of land throughout the jurisdictional area.
- #11. Must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities.

The proposed zone change from I-1 to OS supports the goal of Cascade County to preserve natural floodplain areas. The zone change supports an industrial use subdivision that would enhance economic opportunity by using an area for I-1 of existing, available assets. This new business development may bring more tax dollars to Cascade County, and the proposed zone change has no adverse impact on the agricultural economy or alternative energy development and production.

The proposed zone change from I-1 to OS will preserve the natural floodplain area and its existing natural scenic beauty, and the existing agricultural operations in the area by preventing construction in the existing Sun River and adjacent floodplain, as well as a healthful environmental and community appearance. This area does not have forests, nor mining opportunity, nor oil/gas production; renewable energy production which would be adversely impacted, nor is it undergoing a superfund or brownfield redevelopment/cleanup.

The proposed zone change will have no adverse impact on productive soil types associated with agricultural operations, and protects soils against erosion and protects the floodplain from non-agricultural development, nor any detrimental impact to the local, value-added agricultural industry. The proposed zone change has no adverse impact on the military presence in Cascade County; in fact, the proposed zone change is not relevant to this goal.

The zone change is not contrary to the preservation and promotion of the County's cultural heritage, natural resource development, and the preservation of archeological areas. The property considered for zone change does not have extreme fire hazard areas at the wild land/urban interface, and the zone change is not contrary to educational programs and facilities, recreational opportunities and spaces, and health services for County residents.

Staff feels that the proposed zone change to Open Space will encourage the most appropriate use of land throughout the area, as the Open Space parcel will not encourage development within the floodplain. The rezone is compatible with the zoning ordinances of Great Falls as Cascade County used the City of Great Falls regulations to model the regulations.

CONCLUSION

The Cascade County Zoning Regulations state an open space district is a zoning classification that

limits the allowable uses to agriculture, recreation, parks, reservoirs, and minor utility installations. Open space districts are most commonly used for publicly owned lands, but are also used in areas subject to flooding (floodplain zones) and other natural hazards. Staff finds the applicant's request to rezone a portion of the subject parcel to an open space district reasonable. The zone change request is consistent with the Cascade County Floodplain Regulations and Section 10-14 of the Cascade County Subdivision Regulations (Floodplain Provisions). Designating the areas in the floodplain as open space will serve to reflect the fact that portions of the property are not suitable for development.

RECOMMENDATIONS

Two recommendations have been provided for your consideration:

Recommendation One:

"I move the Planning Board's recommendation to the County Commission after consideration of the staff report that the zone change request of Painted Horse Stables, LLC, to rezone a portion of parcel #2587000, located in the S ½ of Section 31, T. 21N., R. 3E., P.M.M., Cascade County, MT. from "I-1" Light Industrial to "OS" Open Space District, be **denied**."

OR:

Recommendation Two:

"I move the Planning Board recommend to the County Commission that after consideration of the staff report that the zone change request of Painted Horse Stables, LLC, to rezone a portion of parcel #2587000, located in the S ½ of Section 31, T. 21N., R. 3E., P.M.M., Cascade County, MT. from "I-1" Light Industrial to "OS" Open Space District, be **approved**."

Board Questions:

Elliott Merja double-checked that this was for the 0.764-acres. He asked about the floodplain, and wanted to know if that was based upon the levee, and the water level there.

Alex Dachs replied it is for the 0.764-acres only. He explained the floodplain map, adding that a portion of the levee shows in the area, and Mark Leo had checked the elevation and determined what portions of the property were within the 100 year FEMA base flood elevation.

Public Comment Opened at 9:24 am

Applicant representative: Mark Leo, Big Sky Civil Engineering, was available for questions.

Proponents: none

Opponents: none

Public Comment Closed at 9:25 am

Board Decision:

Ken Thornton motioned to the Planning Board recommend to the County Commission that after consideration of the staff report that the zone change request of Painted Horse Stables, LLC, to rezone a portion of parcel #2587000, located in the S ½ of Section 31, T. 21N., R. 3E., P.M.M., Cascade County, MT. from "I-1" Light Industrial to "OS" Open Space District, be **approved**."

Charles Kuether seconded the motion.

All in Favor, Motion passes 5-0

C. Public Hearing: Conservation Easement – Walter Gruel & Son, Inc.

Troy Hangen presented the conservation easement. Board members were asked to add any advisory comments or questions, which would be forwarded to the Natural Resource Conservation Service (NRCS).

According to 76-6-206, MCA, "...all conservation easements shall be subject to review prior to recording by the appropriate local planning authority for the county within which the land lies. It shall be the responsibility of the entity acquiring the conservation easement to present the proposed conveyance of the conservation easement to the appropriate local planning authority. The local planning authority shall have 90 days from receipt of the proposed conveyance within which to review and to comment upon the relationship of the proposed conveyance to comprehensive planning for the area. Such comments will not be binding on the proposed grantor or grantee but shall be merely advisory in nature. The proposed conveyance may be recorded after comments have been received from the local planning authority or the local planning authority has indicated in writing it will have no comments or 90 days have elapsed, whichever occurs first."

The Gruel Family would like to place a conservation easement on 6,296-acres they own in Cascade and Chouteau counties. The easement would be purchased through the Agricultural Land Easement (ALE) program administered by the Natural Resource Conservation Service (NRCS). The property is located about 5-miles North of Great Falls along Hwy 87 and the BNSF railway and is currently being used for farming, some grazing, as well as a temporary gravel extraction operation for the State of Montana. The proposed easement will cover 4-parcels in Cascade County, totaling 961.72 acres, owned by Walter Gruel & Son, Inc. The legal description of the property is Geocodes: 3258-06-2-02-01, 3258-05-2-01-01, 3258-04-2-02-01, 3258-08-3-01-01, and Parcels: 2872400, 2871200, 2870100, and 2874900. It is in Sections 06, 05, 04, and 08, T22N, R05E, Cascade County, MT.

Existing structures on Gruel Property include:

- Two residences, bunkhouse, barn, garage, grain bins, other old outbuildings.

Allowed future development on Gruel Property:

- Two (2) new single-family residential structures with associated non-residential and agricultural structures will be located in the building envelopes that encompass existing residences.
- Retain the right to replace existing agricultural structures.
- The property will transfer as three parcels only.

According to the Deed of Conservation Easement:

- *"The Protected Property includes significant open-space land as defined in the Montana Open Space Land and Voluntary Conservation Easement Act, Montana Code Annotated (MCA) Section 76-6-101, et seq.; and"*

• "Preservation of the Protected Property by this Easement will yield significant public benefits to the people of the State of Montana, Cascade County, Chouteau County, and the United States by protecting, preserving, and providing the following significant resources, in perpetuity, in compliance with Section 170(h)(4)(A) of the Internal Revenue Code and Sections 76-6-101, et seq., MCA:"

- "Open space lands, 5,371 acres (86%) of which are designated as agriculturally significant by the NRCS, and which maintain the rural, agricultural, and natural scenic qualities of the area and provide opportunities to continue traditional farming and ranching practices in perpetuity, as encouraged and supported by federal tax policies including Section 170(b)(1)(E) of the Internal Revenue Code, and clearly delineated land conservation policies adopted in Cascade County, Montana, and Chouteau County, Montana."
- "Retention of important farmland, including, prime, prime if irrigated, and important statewide and locally important soils, as designated by NRCS."
- "Scenic views of historic Montana landscapes and working agricultural lands in the Missouri River Valley, that are enjoyed by members of the general public traveling Highway 87, Antelope Lake Road, and Power Line Road, public roadways which border/bisect the Protected Property, and the protection of this landscape located immediately adjacent to state public lands will provide public benefits by ensuring the open space will remain relatively undisturbed by prohibiting residential subdivision on the Protected Property in perpetuity;"
- "Retention of significant open space for a variety of other uses, including for the benefit of fish and wildlife, such as hawks, kites, eagles, longspurs, snow buntings, geese and ducks, all of which use the Protected Property;"

Conclusion

The proposed conservation easement will preserve ranch lands, scenic open space, and land adjacent to lands owned and administered by the State of Montana. Staff will forward any comments that the Planning Board has to the grantee (The Montana Land Reliance). The proposal is in general compliance with Cascade County's Growth Policy in that it preserves agricultural lands and scenic open space.

Board Comments and Questions:

Elliott Merja asked Ms. Haight if there is a process if the landowner wishes to get out of the easement.

Carey Haight explained that it is possible, but normally these are long-term. She asked staff if they had any response from Choteau County about the easement.

Alex Dachs replied no.

Charles Kuether asked if this had gone beyond the 90-days. He added that he had requested a copy of the proposed deed and found it was quite in-depth, and that there is a very complicated process to remove the easement.

Troy Hangen said it is still within the 90-days.

Elliott Merja commented that in his opinion this is a good move for keeping land in agricultural. Planning Board directed staff to relay their thanks and that they support this.

5. Old Business: none

6. Board Matters:

Elliott Merja asked about the Madison Food meeting and if anyone had attended it.

Alex Dachs replied staff did not attend.

Charles Kuether said he attended it; there were so many attending it that they had to turn people away.

Ken Thornton asked if it would be coming in front of this board.

Alex Dachs replied no, it falls to the ZBOA.

7. Public Comments Regarding Matters within the Board's Jurisdiction: none

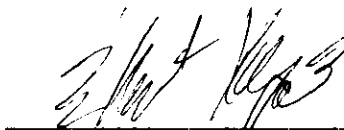
8. Adjournment:

Mark Carlson motioned to adjourn.

Charles Kuether seconded motion

All in Favor, Motion passes 5-0.

Meeting adjourned at 9:43 am



Elliot Merja
Chairman

1/30/18
Date



Brian K. Clifton

1/30/18
Date